

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Alameda Corridor – East Construction Authority (ACE) for an order authorizing elimination of an existing at-grade crossing through construction of a grade separated crossing (roadway underpass) at Nogales Street, under Union Pacific Railroad Company’s Alhambra Subdivision main line, in the City of Industry, County of Los Angeles.

Application 02-01-038
(Filed January 31, 2002;
Petition for Modification filed
September 9, 2003)

OPINION MODIFYING DECISION 02-11-012**Summary**

By Petition for Modification filed September 9, 2003, Alameda Corridor – East Construction Authority (ACE) requests authority to modify Decision (D.) 02-11-012, whereby the Commission granted authority to ACE to construct Nogales Street grade-separated highway-rail crossing (roadway underpass) under Union Pacific Railroad Company’s (UP) Alhambra Subdivision main line tracks and to close and physically remove the existing Nogales Street at-grade highway-rail crossing, in the City of Industry (City), Los Angeles County.

Discussion

By D.02-11-012, dated November 7, 2002, in Application (A.) 02-01-038, the Commission granted ACE authority to construct Nogales Street grade-separated highway-rail crossing under UP’s Alhambra Subdivision main line tracks. The Commission also granted ACE authority to close the existing Nogales Street at-grade highway-rail crossing and to open, during the period of construction, a

temporary detour at-grade highway-rail crossing located approximately 100 feet to the east of Nogales Street. Upon the completion of the grade-separated highway-rail crossing and its opening to vehicular traffic, ACE will close and physically remove the existing Nogales Street and temporary detour at-grade highway-rail crossings.

ACE filed the Petition for Modification of D.02-11-012 on September 9, 2003, to request a substitution to the type of warning devices at the proposed temporary detour at-grade highway-rail crossing. In A.02-01-038, ACE requested and in Ordering Paragraph 5 of D.02-11-012, the Commission ordered the installation of two CPUC Standard No. 9-A (flashing light signals with automatic gates with additional flashing lights on cantilevered mast arms, as defined in Commission General Order (GO) 75-C) warning devices and two CPUC Standard No. 9 (flashing light signals with automatic gates, as defined in GO 75-C) warning devices. In this Petition for Modification, ACE requests authority to install two CPUC Standard No. 9 and two median-mounted CPUC Standard No. 9 warning devices in lieu of the warning devices ordered in D.02-11-012.

In the Petition for Modification, ACE gave its reasons for its request to modify the proposed warning devices at the temporary detour at-grade highway-rail crossing. ACE stated that the temporary detour at-grade highway-rail crossing would have four traffic lanes (two traffic lanes in each direction). Each traffic lane will have its own CPUC Standard No. 9 warning device. Each warning device will have backlights and front lights that are visible from each of the approach lanes to the temporary detour crossing.

Subsequent to the Commission's issuance of D.02-11-012, ACE initiated project construction. Construction began with utility relocations and the

construction of temporary railroad facilities (temporary bypass track grading). ACE is coordinating the work with UP and the City. This coordination has led to a re-evaluation by ACE, UP, and the City (parties) as to what warning devices would work best at the temporary detour at-grade highway-rail crossing. The parties analyzed the available horizontal clearances between signal poles and signal lights. The parties also analyzed the expected vehicular turning movements from the temporary detour at-grade highway-rail crossing into and out of the adjacent street-street intersection with Valley Boulevard, located parallel to and north of UP's Alhambra Subdivision main line tracks.

On September 3, 2003, representatives for ACE and UP met with a member of the Commission's Rail Crossings Engineering Section (RCES) at ACE's offices and as a diagnostic team at the project site. The temporary detour at-grade highway-rail crossing will have a total of four traffic lanes. The diagnostic team determined that the elimination of cantilever poles and masts at the temporary detour at-grade highway-rail crossing would reduce the potential for vehicle – fixed object conflicts. Consequently, the use of four CPUC Standard No. 9 warning devices, which do not have cantilever poles and masts, would improve safety. The RCES staff is in agreement with ACE's proposal.

For the grade separation project approved in D.02-11-012, ACE was the lead agency for environmental review under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq. The Commission was a responsible agency under CEQA.

In D.02-11-012, the Commission noted that Public Resources Code Section 21080.13 exempts from CEQA review any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation. Nevertheless, ACE issued a Negative Declaration (shown in

Appendix B of D.02-11-012) pursuant to CEQA, as stated in Division 13 (Environmental Protection) of the Public Resources Code. Furthermore, on February 15, 2001, the Federal Highway Administration (FHWA) issued a “Finding of No Significant Impact” (FONSI) for the project (shown in Appendix C of D.02-11-012).

With respect to the alteration of the warning devices, CEQA Guideline Section 15301(f) exempts from CEQA review the “Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices.” The Commission also has determined that modifications to warning devices at an at-grade highway-rail crossing are categorically exempt from the requirements of CEQA, as amended, pursuant to the Commission’s Rules of Practice and Procedure, Rule 17.1(h)(1)(A) 5, 6, and 7.

RCES staff inspected the proposed project site, has reviewed ACE’s request, concurs with the proposed modifications, and recommends that the Commission grant the Petition for Modification.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Petition for Modification of D.02-11-012 was published in the Commission’s Daily Calendar on September 11, 2003. No protests have been received. A public hearing is not necessary.

2. The warning devices specified in D.02-11-012 are two CPUC Standard No. 9-A and two CPUC Standard No. 9 warning devices. The warning devices specified in this Petition for Modification are four CPUC Standard No. 9 warning devices (two warning devices located on the curbsides and two warning devices located on raised median islands).

Conclusions of Law

1. In D.02-11-012, the Commission determined that environmental documents submitted by ACE, which included ACE's Negative Declaration and a FONSI issued by the FHWA, are adequate for our decision-making purposes and that ACE reasonably concluded that the project would not result in significant effect on the environment. Furthermore, the Commission noted that the project was exempt from CEQA pursuant to Public Resources Code Section 21080.13, which exempts from the filing requirements of CEQA any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation.

2. With respect to the alteration of the warning devices, the Commission has determined that CEQA Guideline Section 15301(f) exempts from CEQA review the "Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices." The Commission also has determined that modifications to warning devices at an at-grade highway-rail crossing are categorically exempt from the requirements of CEQA, as amended, pursuant to the Commission's Rules of Practice and Procedure, Rule 17.1(h)(1)(A) 5, 6, and 7.

3. ACE's request to modify D.02-11-012 should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that Decision (D.) 02-11-012 is modified as follows:

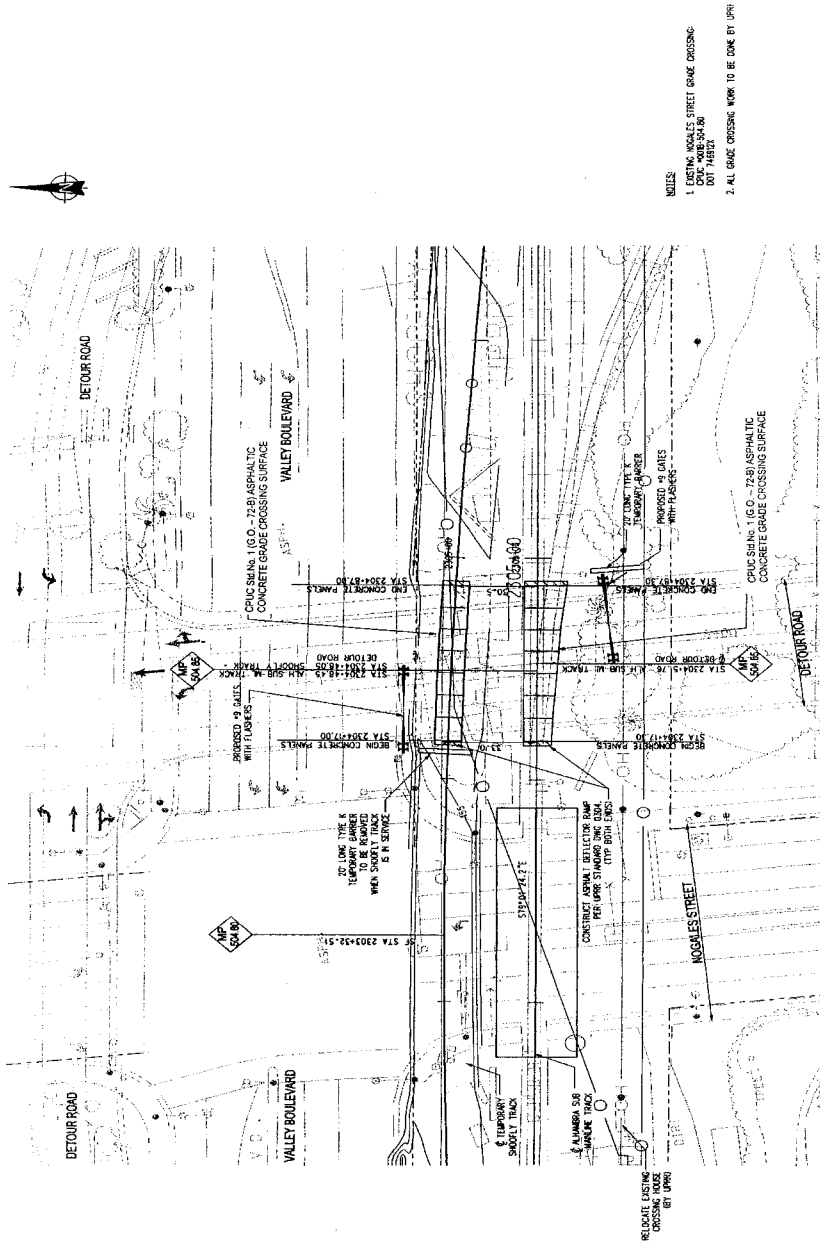
1. Ordering Paragraph 5 is revised to read as follows: Alameda Corridor – East Construction Authority (ACE) shall install at the temporary detour at-grade highway-rail crossing, identified as CPUC Crossing No. B-504.87, four CPUC Standard No. 9 (flashing light signals with automatic gates, as defined in Commission General Order (GO) 75-C) warning devices (two warning devices on the curbsides and two warning devices each located on a raised median island), substantially as shown by plans attached to the Petition for Modification and Appendix of this order.
2. In all other respects, D.02-11-012 shall remain in full force and effect.
3. The Petition for Modification is granted as set forth above.
4. Application 02-01-038 is closed.

This order becomes effective 30 days from today.

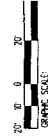
Dated _____, at San Francisco, California.

APPENDIX

PLANS

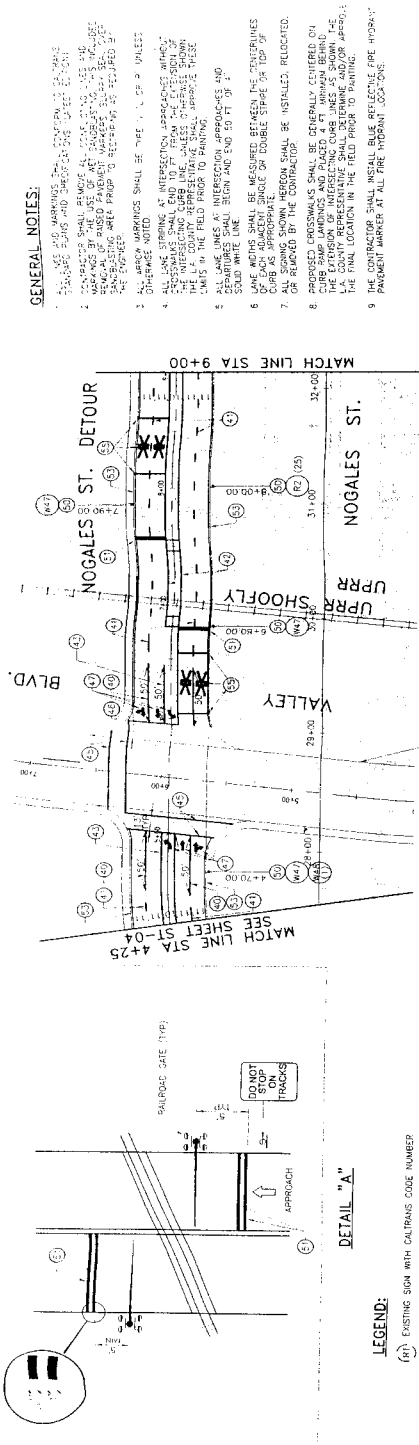


- NOTES
1. FURNISH NEARLY STREET GRADE CROSSING: DOT 748B(2) ASPHALTIC CONCRETE GRADE CROSSING SURFACE.
 2. ALL GRADE CROSSING WORK TO BE DONE BY UPRR.



ALAMEDA CORRIDOR - EAST
CONSTRUCTION AUTHORITY
 NOGALES STREET GRADE SEPARATION
 UPRR ALHAMBRA SUBDIVISION - MP 564.50
 NOGALES STREET ROAD
 UPRR ALHAMBRA SUBDIVISION - MP 564.50
 UPRR ALHAMBRA SUBDIVISION - MP 564.50

DETOUR ROAD GRADE CROSSING



- STRIPING & SIGNING NOTES:**
1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF PAID PAVEMENT MARKINGS PRIOR TO RECONSTRUCTION OF THE ROADWAY.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF PAID PAVEMENT MARKINGS PRIOR TO RECONSTRUCTION OF THE ROADWAY.
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 9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF PAID PAVEMENT MARKINGS PRIOR TO RECONSTRUCTION OF THE ROADWAY.

SEE SIGNING AND STRIPING
ON VALLEY BLVD. DETOUR

